

State of South Dakota

EIGHTY-FOURTH SESSION LEGISLATIVE ASSEMBLY, 2009

912Q0469

SENATE BILL NO. 100

Introduced by: Senators Knudson, Gray, Heidepriem, Hunhoff (Jean), Maher, and Miles and
Representatives Rausch, Cutler, Dennert, Engels, Faehn, Hunhoff (Bernie),
Kirkeby, Krebs, Lust, Noem, Putnam, Steele, Tidemann, and Turbiville

1 FOR AN ACT ENTITLED, An Act to revise the method of taxation of certain tobacco products.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 10-50-1 be amended to read as follows:

4 10-50-1. Terms used in this chapter mean:

5 (1) "Adult," any person who is at least the legal minimum purchase age;

6 (2) "Consumer," any individual who is not a retailer or a licensed distributor or
7 wholesaler pursuant to § 10-50-9;

8 (3) "Dealer," or "retailer," any person other than a distributor or wholesaler, as defined
9 herein, who is engaged in this state in the business of selling cigarettes or tobacco
10 products at retail;

11 (4) "Delivery sale," any sale of cigarettes to a consumer in the state where:

12 (a) The purchaser submits the order for the sale by means of a telephonic or other
13 method of voice transmission, the mail or any other delivery service, or the
14 internet or other online service; or



1 (b) The cigarettes are delivered by use of the mail or delivery service. A sale of
2 cigarettes ~~shall be~~ is a delivery sale regardless of whether the seller is located
3 within or without the state;

4 (5) "Delivery service," any person engaged in the commercial delivery of letters,
5 packages, or other containers;

6 (6) "Distributor," any person engaged in this state in the business of producing or
7 manufacturing cigarettes, or importing into the state cigarettes, at least seventy-five
8 percent of which are purchased directly from the manufacturers ~~thereof~~ of the
9 cigarettes;

10 (7) "Legal minimum purchase age," the minimum age at which an individual may legally
11 purchase cigarettes in this state pursuant to § 34-46-2;

12 (8) "Licensed distributor," or "licensed wholesaler," a distributor or wholesaler licensed
13 under the provisions of this chapter;

14 (9) "Moist snuff," any finely cut, ground, or powdered tobacco that is not intended to be
15 smoked but does not include any finely cut, ground, or powdered tobacco that is
16 intended to be placed in the nasal cavity;

17 ~~(9)~~(10) "Mail," or "mailing," the shipment of cigarettes through the United States
18 Postal Office;

19 ~~(10)~~(11) "Person," any individual, firm, fiduciary, partnership, limited liability
20 company, corporation, trust, or association, however formed;

21 ~~(11)~~(12) "Sale" or "sell," shall include or apply to gifts, exchanges, and barter;

22 ~~(12)~~(13) "Secretary," the secretary of revenue and regulation;

23 ~~(13)~~(14) "Shipping container," any container in which cigarettes are shipped in
24 connection with a delivery sale;

(14)(15) "Shipping document," any bill of lading, airbill, or any other document used to provide evidence of the undertaking by a delivery service to deliver a letter, package, or other container;

(15)(16) "Tobacco products," cigars, snuff, chewing tobacco, and any other products made up or composed of tobacco in whole or in part, except cigarettes.

Section 2. That § 10-50-61 be amended to read as follows:

10-50-61. In addition to the tax imposed by § 10-50-3, there is imposed, whether or not a sale occurs, a tax upon all tobacco products in this state and upon any person engaged in business as a licensed distributor or licensed wholesaler thereof, at the ~~rate~~ following rates:

(1) Upon moist snuff, at the rate of eighty-eight cents per ounce and a proportionate tax at the like rate on all fractional parts of an ounce of moist snuff. For purposes of this section, the tax on moist snuff is computed based on the net weight as listed by the manufacturer;

(2) Upon tobacco products other than moist snuff, at the rate of thirty-five percent of the wholesale purchase price of such tobacco products.

~~Such~~ The tax shall be imposed at the time the distributor or wholesaler brings or causes to be brought into this state tobacco products for sale; makes, manufactures, or fabricates tobacco products in this state for sale in this state; or ships or transports tobacco products to dealers in this state to be sold by those dealers. For the purposes of this chapter, wholesale purchase price is the price for which a manufacturer sells tobacco products to a licensed distributor or licensed wholesaler exclusive of any discount or other reduction.